



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Diagnostic Equipment Services

File: B-228050.2

Date: December 3, 1987

DIGEST

Absent preferential treatment or unfair action by the procuring agency, the agency is not required to equalize the competitive advantage enjoyed by the original manufacturer.

DECISION

Diagnostic Equipment Services, Inc. (DES) protests the terms of request for proposals (RFP) No. 600-005-88, issued by the Veterans Administration (VA) for all necessary labor, materials, parts and transportation for normal service requirements, including preventive maintenance inspections and repair, of the government-owned General Electric (GE) Model 8800 computerized axial tomography (CAT) scanner equipment and array processor located at the VA Medical Center in Long Beach, California. DES protests the solicitation requirement that during the contract period the successful offeror guarantee the array processor against defective materials, workmanship and performance. Specifically, DES argues that GE, as the incumbent contractor and original equipment manufacturer which has already warranted the equipment, has a competitive advantage in guaranteeing the array processor against defective materials and workmanship.

We addressed the identical issue regarding the same solicitation in our decision in Computer Tomography Repair Service, Inc., B-228050, Nov. 2, 1987, 87-2 CPD ¶ _____. As noted in our earlier decision, the VA recognized that GE had a competitive advantage and at one time planned a noncompetitive procurement restricted to GE. However, the VA canceled these plans based upon interest expressed by several other firms in the procurement and issued the subject competitive RFP. We did not find this decision unreasonable in our prior decision. Moreover, as stated in that decision, despite the obvious competitive advantage enjoyed by GE, our Office has not required agencies to

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equalize a competitive advantage enjoyed by an offeror unless that advantage results from preferential treatment or other unfair action by the government. Halifax Engineering, Inc., B-219178.2, Sept. 30, 1985, 85-2 CPD ¶ 559. No such circumstances have been alleged here.

The protest is dismissed.

A handwritten signature in cursive script that reads "Ronald Berger". The signature is written in dark ink and is positioned above the printed name and title.

Ronald Berger
Deputy Associate
General Counsel